

recreational, ecological, historical, research, educational, or aesthetic qualities.

(b) The goals of the Program are to carry out the mission to:

(1) Identify and designate as National Marine Sanctuaries areas of the marine environment which are of special national significance;

(2) Provide authority for comprehensive and coordinated conservation and management of these marine areas, and activities affecting them, in a manner which complements existing regulatory authorities;

(3) Support, promote, and coordinate scientific research on, and monitoring of, the resources of these marine areas, especially long-term monitoring and research of these areas;

(4) Enhance public awareness, understanding, appreciation, and wise use of the marine environment;

(5) Facilitate to the extent compatible with the primary objective of resource protection, all public and private uses of the resources of these marine areas not prohibited pursuant to other authorities;

(6) Develop and implement coordinated plans for the protection and management of these areas with appropriate Federal agencies, State and local governments, Native American tribes and organizations, international organizations, and other public and private interests concerned with the continuing health and resilience of these marine areas;

(7) Create models of, and incentives for, ways to conserve and manage these areas;

(8) Cooperate with global programs encouraging conservation of marine resources; and

(9) Maintain, restore, and enhance living resources by providing places for species that depend upon these marine areas to survive and propagate.

(c) To the extent consistent with the policies set forth in the Act, in carrying out the Program's mission and goals:

(1) Particular attention will be given to the establishment and management of marine areas as National Marine Sanctuaries for the protection of the area's natural resource and ecosystem values; particularly for ecologically or

economically important or threatened species or species assemblages, and for offshore areas where there are no existing special area protection mechanisms;

(2) The size of a National Marine Sanctuary, while highly dependent on the nature of the site's resources, will be no larger than necessary to ensure effective management;

(d) Management efforts will be coordinated to the extent practicable with other countries managing marine protected areas;

(e) Program regulations, policies, standards, guidelines, and procedures under the Act concerning the identification, evaluation, registration, and treatment of historical resources shall be consistent, to the extent practicable, with the declared national policy for the protection and preservation of these resources as stated in the National Historic Preservation Act of 1966, 16 U.S.C. 470 *et seq.*, the Archeological and Historical Preservation Act of 1974, 16 U.S.C. 469 *et seq.*, and the Archeological Resources Protection Act of 1979 (ARPA), 16 U.S.C. 470aa *et seq.* The same degree of regulatory protection and preservation planning policy extended to historical resources on land shall be extended, to the extent practicable, to historical resources in the marine environment within the boundaries of designated National Marine Sanctuaries. The management of historical resources under the authority of the Act shall be consistent, to the extent practicable, with the Federal archeological program by consulting the Uniform Regulations, ARPA (43 CFR part 7) and other relevant Federal regulations. The Secretary of the Interior's Standards and Guidelines for Archeology may also be consulted for guidance. These guidelines are available from the Office of Ocean and Coastal Management at (301) 713-3125.

#### § 922.3 Definitions.

*Act* means title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 16 U.S.C. 1431 *et seq.*, also known as the National Marine Sanctuaries Act.

*Active Candidate* means a site selected by the Secretary from the Site Evaluation List for further consideration for possible designation as a National Marine Sanctuary.

*Assistant Administrator* means the Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration (NOAA), or designee.

*Benthic community* means the assemblage of organisms, substrate, and structural formations found at or near the bottom that is periodically or permanently covered by water.

*Commercial fishing* means any activity that results in the sale or trade for intended profit of fish, shellfish, algae, or corals.

*Conventional hook and line gear* means any fishing apparatus operated aboard a vessel and composed of a single line terminated by a combination of sinkers and hooks or lures and spooled upon a reel that may be hand- or electrically operated, hand-held or mounted. This term does not include bottom longlines.

*Cultural resources* means any historical or cultural feature, including archaeological sites, historic structures, shipwrecks, and artifacts.

*Director* means, except where otherwise specified, the Director of the Office of Ocean and Coastal Resource Management, NOAA, or designee.

*Exclusive economic zone* means the exclusive economic zone as defined in the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*

*Fish wastes* means waste materials resulting from commercial fish processing operations.

*Historical resource* means any resource possessing historical, cultural, archaeological or paleontological significance, including sites, contextual information, structures, districts, and objects significantly associated with or representative of earlier people, cultures, maritime heritage, and human activities and events. Historical resources include “submerged cultural resources”, and also include “historical properties,” as defined in the National Historic Preservation Act, as amended, and its implementing regulations, as amended.

*Indian tribe* means any American Indian tribe, band, group, or community recognized as such by the Secretary of the Interior.

*Injure* means to change adversely, either in the short or long term, a chemical, biological or physical attribute of, or the viability of. This includes, but is not limited to, to cause the loss of or destroy.

*Lightering* means at-sea transfer of petroleum-based products, materials, or other matter from vessel to vessel.

*Marine* means those areas of coastal and ocean waters, the Great Lakes and their connecting waters, and submerged lands over which the United States exercises jurisdiction, including the exclusive economic zone, consistent with international law.

*Mineral* means clay, stone, sand, gravel, metalliferous ore, non-metalliferous ore, or any other solid material or other matter of commercial value.

*National historic landmark* means a district, site, building, structure or object designated as such by the Secretary of the Interior under the National Historic Landmarks Program (36 CFR part 65).

*National Marine Sanctuary* means an area of the marine environment of special national significance due to its resource or human-use values, which is designated as such to ensure its conservation and management.

*Person* means any private individual, partnership, corporation or other entity; or any officer, employee, agent, department, agency or instrumentality of the Federal government, of any State or local unit of government, or of any foreign government.

*Regional Fishery Management Council* means any fishery council established under section 302 of the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*

*Sanctuary quality* means any of those ambient conditions, physical-chemical characteristics and natural processes, the maintenance of which is essential to the ecological health of the Sanctuary, including, but not limited to, water quality, sediment quality and air quality.

*Sanctuary resource* means any living or non-living resource of a National Marine Sanctuary that contributes to

the conservation, recreational, ecological, historical, research, educational, or aesthetic value of the Sanctuary, including, but not limited to, the substratum of the area of the Sanctuary, other submerged features and the surrounding seabed, carbonate rock, corals and other bottom formations, coralline algae and other marine plants and algae, marine invertebrates, brine-seep biota, phytoplankton, zooplankton, fish, seabirds, sea turtles and other marine reptiles, marine mammals and historical resources. For Thunder Bay National Marine Sanctuary and Underwater Preserve, Sanctuary resource means an underwater cultural resource as defined at § 922.191.

*Secretary* means the Secretary of the United States Department of Commerce, or designee.

*Shunt* means to discharge expended drilling cuttings and fluids near the ocean seafloor.

*Site Evaluation List (SEL)* means a list of selected natural and historical resource sites selected by the Secretary as qualifying for further evaluation for possible designation as National Marine Sanctuaries.

*State* means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, the United States Virgin Islands, Guam, and any other commonwealth, territory, or possession of the United States.

*Subsistence use* means the customary and traditional use by rural residents of areas near or in the marine environment for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation; for the making and selling of handicraft articles; and for barter, if for food or non-edible items other than money, if the exchange is of a limited and non-commercial nature.

*Take or taking* means: (1) For any marine mammal, sea turtle, or seabird listed as either endangered or threatened pursuant to the Endangered Species Act, to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect or injure, or to attempt to engage in any such conduct; (2) For any other marine mammal, sea turtle, or seabird,

to harass, hunt, capture, kill, collect or injure, or to attempt to engage in any such conduct. For the purposes of both (1) and (2) of this definition, this includes, but is not limited to, to collect any dead or injured marine mammal, sea turtle or seabird, or any part thereof; to restrain or detain any marine mammal, sea turtle or seabird, or any part thereof, no matter how temporarily; to tag any sea turtle, marine mammal or seabird; to operate a vessel or aircraft or to do any other act that results in the disturbance or molestation of any marine mammal, sea turtle or seabird.

*Tropical fish* means fish or minimal sport and food value, usually brightly colored, often used for aquaria purposes and which lives in a direct relationship with live bottom communities.

*Vessel* means a watercraft of any description capable of being used as a means of transportation in/on the waters of a Sanctuary.

[60 FR 66877, Dec. 27, 1995, as amended at 62 FR 4607, Jan. 30, 1997; 65 FR 39055, June 22, 2000]

#### § 922.4 Effect of National Marine Sanctuary designation.

The designation of a National Marine Sanctuary, and the regulations implementing it, are binding on any person subject to the jurisdiction of the United States. Designation does not constitute any claim to territorial jurisdiction on the part of the United States for designated sites beyond the U.S. territorial sea, and the regulations implementing the designation shall be applied in accordance with generally recognized principles of international law, and in accordance with treaties, conventions, and other agreements to which the United States is a party. No regulation shall apply to a person who is not a citizen, national, or resident alien of the United States, unless in accordance with:

- (a) Generally recognized principles of international law;
- (b) An agreement between the United States and the foreign state of which the person is a citizen; or
- (c) An agreement between the United States and the flag state of the foreign